MAY 31 1950
CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1949.

No. [redacted]100

WATSON BROS. TRANSPORTATION CO., INC.,
Petitioner,

vs.

CENTRAL STATES COOPERATIVES, INC.,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

JULIUS L. SHERWIN,
THEODORE R. SHERWIN,
209 South La Salle Street,
Chicago 4, Illinois,
Counsel for Petitioners.

THE BLAKISTON-WARREN PRINTING COMPANY, 810 WEST JACKSON, CHICAGO

TABLE OF CONTENTS.

PAGE

Opinions Below 2

Jurisdiction 2

Summary Statement of Matter Involved 3-8

Questions Presented 9

Reasons for Granting Certiorari:

I. The Court of Appeals Has Decided a Question of General Importance Which Has Not Been But Should be Settled by This Court; Namely, Whether a Cause Has Become Moot on Appeal is to be Determined by the Federal Authorities or by the State Decisions Under the Rule of Erie Railroad Co. v. Tompkins, 304 U. S. 64 .10-14

II. The Court of Appeals Deprived the Defendant of Its Right to a Trial by Jury by Passing Upon Issues of Credibility and Drawing Unfavorable Inferences Against the Defendant, in Arriving at Its Decision on the Merits 14-17

Authorities Cited.

Cases.

Alejandrino v. Quezon, 271 U. S. 528, 535 13
Brownlow v. Schwartz, 261 U. S. 216 12
Central States Co-ops. v. Watson Bros. Transp. Co., 165 F. 2d 392 6
Central States Cooperatives, Inc. v. Watson Bros. Transportation Co., Inc., 337 U. S. 951 6
Erie Railroad Co. v. Tompkins, 304 U. S. 64 10
Fort Dodge Hotel Co. v. Bartelt, 119 F. 2d 253, 259 (C. A. 8, 1941) 16
Gulf, Col. & S. F. Ry. Co. v. Dennis, 224 U. S. 503, 508 13
Heitmuller v. Stokes, 256 U. S. 359 11
Hickman v. Jones, 76 U. S. 197, 201 16
Hodges v. The Bankers Surety Company, 152 Ill. App. 372, 380-381 16
Kuper v. Betzer, 115 F. 2d 842, 844 (C. A. 8, 1940) 16
LaGuerra v. Brasileiro, 124 F. 2d 553, 554 (C. A. 2, 1942) 17
Lauhoff v. Automobile Insurance Company of Hartford, 56 F. Supp. 493, 498 (D. C. Ill. 1944) 16
National Mutual Ins. Co. v. Tidewater Transfer Co. 337 U. S. 582 6
Turner County, S. D. v. Miller, 170 F. 2d 820, 827 (C. A. 8, 1948) 17

Statute.

Act of June 25, 1948, c. 646, 62 Stat. 928, Title 28 U. S. C. § 1254 2

IN THE

Supreme Court of the United States

OCTOBER TERM, 1949.

No. .....

WATSON BROS. TRANSPORTATION CO., INC.,
Petitioner,

vs.

CENTRAL STATES COOPERATIVES, INC.,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

To the Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Now comes Watson Bros. Transportation Co., Inc., defendant-appellant, below, by its duly authorized attorneys, Julius L. Sherwin and Theodore R. Sherwin, and prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Seventh Circuit, entered on February 10, 1950 (R. 222), rehearing denied, April 6, 1950 (R. 223).

In support of this petition, your petitioner respectfully shows:

OPINIONS BELOW.

The District Court did not prepare or publish an opinion. The opinion of the Court of Appeals for the Seventh Circuit is reported in 180 F. (2d) 689, and appears in the record at pages 211-221.

JURISDICTION.

This Court's jurisdiction is evoked pursuant to the Act of June 25, 1948 c. 646, 62 Stat. 928, Title 28 U. S. C. § 1254.

SUMMARY STATEMENT OF MATTER INVOLVED.

The respondent,* Central States Cooperatives, Inc., filed its complaint in the Municipal Court of Chicago against the petitioner Watson Bros. Transportation Co., Inc.* for possession of certain described premises located in Chicago, Illinois. Upon petition of the defendant the cause was removed to the United States District Court. After the removal plaintiff filed its amended complaint for possession of the described premises. The prayer of the complaint seeks solely possession and no other relief (R. 47).

The amended complaint alleges that the defendant held over in the described premises after the expiration on September 30, 1946, of a written lease. The answer of

* For convenience the petitioner is sometimes referred to as the "defendant" and the respondent as the "plaintiff."

the defendant admitted the expiration of the written lease but set forth that by an oral leasing agreement between the parties it was agreed that the defendant could remain in possession from October 1, 1946, to June 30, 1947. The cause was tried to a jury. By reason of its affirmative defense the defendant was required to open with its proof. All of the evidence introduced upon the trial was that of the defendant. No evidence was introduced by the plaintiff. At the conclusion of the evidence the Court directed a verdict in favor of the plaintiff and a judgment was entered upon that verdict awarding a writ of restitution for possession of the premises in favor of the plaintiff.

In support of its affirmative defense the defendant introduced the written lease under which it had been in possession wherein one Charles H. Morse, Jr., was lessor, and the defendant lessee, covering the term from October 1, 1945, to September 30, 1946 (R. 122-129). The lease provided among other things that in the event during the term of the lease the lessor elected to sell the premises the lessee would have the right of first refusal; that is to say, the first opportunity to purchase the premises upon the same terms and conditions as the lessor proposed to sell the premises to any other person, firm or corporation. In the event of any proposed sale the lessor was required to advise the lessee in writing giving the name of the proposed purchaser and the terms, conditions and consideration of the proposed sale. The lessee defendant was to have ten days from the receipt of such notice to purchase the premises upon like terms, conditions and for a like consideration (R. 124-125).

On May 27, 1946, Morse, defendant's lessor, made a contract with the plaintiff to sell the premises in question to the plaintiff. Notice of the proposed sale in accordance with the terms of the lease was given to the defendant by letter dated May 28, 1946 (R. 130-131). On June

6, 1946, within the ten-day period provided for by the lease, William M. Wolfe, Vice President of the defendant, came to Chicago from Omaha and talked to Laurie L. Lehtin, General Manager of the plaintiff. Wolfe asked Lehtin for a lease to continue in the premises and told Lehtin that if he could not get a lease that the defendant would definitely buy the premises in question (R. 96-97). Lehtin told Wolfe that he wanted to think the matter over and told Wolfe to call him back at four o'clock that afternoon. When Wolfe called back and asked Lehtin if he had come to a conclusion as to whether or not he was going to lease the building or whether the defendant was going to buy it, Lehtin said: "I want you to see Mr. Richter." Wolfe asked Lehtin "What do I want to see Richter about? We are dealing on a matter of hours." Lehtin said, "That is all right. You talk to Richter. He is in a position to talk for us" (R. 97-98). Richter is a real estate broker associated with Seay & Thomas Real Estate Company. The following day, June 7, 1946, Wolfe talked to Richter and after discussing the leasing of the premises Wolfe stated that Richter and he agreed that the defendant was under a lease for nine months from the expiration of the existing lease at a rental of $850 per month giving the plaintiff the right to use some of the property. Richter stated that was a deal (R. 103). Wolfe called Richter who told him he was having trouble getting Mr. Lehtin and asked if a letter signed by Mr. McBride of Brenner & McBride, attorneys for the plaintiff, would be satisfactory. Wolfe stated he wanted Richter's signature on the letter (R. 103-4). Wolfe went to McBride's office at noon two minutes before train time on June 8th. Wolfe received a letter from McBride, looked to see if Lehtin's signature was on it, told McBride he was sorry he had a man downstairs waiting for him and he had to run. He was there actually less than a minute.

He did not stop to read the letter or discuss it. He actually first read the letter on the train from Chicago to Omaha (R. 104). The letter did not contain the same terms and provisions that Wolfe and Richter had agreed upon. The letter was written, however, at the request of Mr. Richter (R. 45, 149). The defendant did not exercise its option to purchase the premises in question because of the oral leasing agreement Wolfe had concluded with Richter (R. 112).

The defendant also called in its behalf Laurie L. Lehtin, the General Manager of the plaintiff, to show his status as General Manager of the plaintiff and also introduced certain letters for the limited purpose of supporting the prior oral testimony as to the authority of Richter to act for the plaintiff (R. 111).

It was at the conclusion of the foregoing evidence that the trial judge directed the jury to return a verdict in favor of the plaintiff.

Thereupon the defendant perfected its appeal to the Court of Appeals and on September 23, 1947, during the pendency of such appeal filed in that court its motion for an order to reverse the judgment appealed from and to remand the cause to the District Court with instructions to dismiss the complaint for the reason that there was no longer any actual controversy involving real and substantial rights between the parties but only an abstract and moot question. The motion also requested in the alternative that the judgment be reversed and the cause be remanded with instructions to the District Court to remand the cause to the State Court on the ground that the District Court was without jurisdiction (R. 179-190).

On October 30, 1947, the Court of Appeals entered an order denying the motion of the plaintiff without prejudice to its right to renew the same at the time of the hearing on the merits. Thereupon that court held that the Dis-

trict Court was without jurisdiction. *Central States Co-Ops. v. Watson Bros. Transp. Co.*, 165 F. 2d 392. This holding was reversed by this Court in the light of its decision in *National Mutual Ins. Co.* v. *Tidewater Transfer Co.*, 337 U. S. 582. This Court's *per curiam* decision is *Central States Cooperatives, Inc.* v. *Watson Bros. Transportation Co., Inc.*, 337 U. S. 951. The cause was remanded for further consideration and the prior judgment of the Court of Appeals vacated.

As appears from the opinion of the Court of Appeals (R. 212) the case was set for oral argument and the defendant renewed its motion, originally denied without prejudice, to reverse and remand with directions that the complaint be dismissed as no actual controversy remained between the parties and there was no subject matter upon which the judgment of the court could operate and that the issue for decision was moot. As stated in the opinion of the Court of Appeals (R. 212) there is no dispute as to the facts relied upon by the defendant in support of its motion. As shown in the original motion the plaintiff on July 14, 1947, sold and conveyed the premises in controversy to Yellow Terminals, Inc., which later company on August 5, 1947, filed in the United States District Court its suit against the defendant for possession of the same premises. By the renewed motion it was further shown that the defendant on December 4, 1947, surrendered possession of the premises in controversy to Yellow Terminals, Inc., and that the latter took possession on said date. It was also shown that plaintiff on February 7, 1948, instituted an action in the Superior Court of Cook County against the defendant to recover for the reasonable rental value of the premises in controversy, statutory double rent, and for other items of damage alleged to have been sustained on account of the defendant's detention of the property.

The Court of Appeals in denying the motion to dismiss the appeal as moot stated that the question posed under the motion is whether the issue in the motion is substantive so that under *Erie Railroad Co.* v. *Tompkins,* 304 U. S. 64 the Illinois law would apply, or whether it was a procedural question calling for the application of the federal law. The Court further stated that based upon the decision of *Heitmuller* v. *Stokes,* 256 U. S. 359, if controlling, would require affirmative action on the motion. The opinion reads:

> "In support of its motion, Watson Brothers cites and relies entirely upon *Heitmuller* v. *Stokes,* 256 U. S. 359. There the court, with a situation before it quite similar to that which now confronts us, held that the question of the right to possession had become moot and it reversed and remanded the cause to the court of original jurisdiction with directions that the complaint be dismissed. The holding in that case, if controlling, would seem to require affirmative action on the motion under consideration. Since then, however, we have had *Erie Railroad Co.* v. *Tompkins,* 304 U. S. 64, which calls for the invocation of the State rule where substantive rights are affected. The question thus posed is whether the issue on the motion is substantive or procedural. If the former, the rights of the parties must be determined by the Illinois law; if the latter, the *Heitmuller* case, *supra,* governs.
>
> "Watson Brothers contends that there is no subject matter upon which the judgment of the court can now operate. Of course, that is true provided the assertion is limited solely to the right of possession."

After denying the motion to reverse and remand the Court proceeded to a discussion of the merits of the case. On the merits of the case the principal controversy related to whether the defendant had made a valid oral agreement with an authorized representative of the plaintiff. The Court of Appeals found "* * * that no oral agree-

ment was made binding upon Central States, * * *'' (R. 221). In arriving at that conclusion the Court of Appeals attacked the credibility of the evidence of the defendant and drew unfavorable inferences from the evidence against the defendant. The opinion states (R. 221):

> ''Watson Brothers relies on the well known rule that it was on a motion for directed verdict entitled to the benefit of all *favorable inferences* arising from the facts. Assuming it was so entitled, as we think it was, it is our view that the *inescapable inferences do its position more harm than good.* For instance, if Wolfe at the time he claims to have made an oral lease with Richter thought that the latter was authorized to act for Central States, why did he insist that the agreement be signed by Lehtin? The fact that he was not willing to rely upon Richter in this respect indicates that he recognized Richter's lack of authority. More than that, so far as we can ascertain from the record, Watson Brothers first made its claim of an oral lease when its answer was filed in court on November 19, 1946. Its silence during all this time is, so we think, inconsistent with its belated contention that it was relying upon an oral lease. When Wolfe on June 8 received from McBride a letter containing Central States' proposal wholly at variance with the alleged oral lease entered into some twenty-four hours previously, *it taxes our credulity,* in the absence of any protest on his part that *he believed* an oral agreement binding on the parties had been consummated, and the *unfavorable inference arising* from that circumstance is enhanced by the failure of Watson Brothers to respond to or acknowledge receipt of the subsequent letters which it received from Central States. *A further inference against Watson Brothers* arises from the fact that it refused Central States the right to share possession of the premises or to possess any part of the premises, contrary to the alleged oral agreement.'' (Italics supplied.)

QUESTIONS PRESENTED.

I. Whether or not a cause has become moot on appeal so as to require its reversal and remanding is to be determined by the Federal courts from the Federal authorities or whether that question is to be determined under the State law under the ruling of *Erie Railroad Co.* v. *Tompkins*, 304 U. S. 64.

II. Whether the defendant has been deprived by the Court of Appeals of its right to trial by a jury where in examining the evidence upon which the trial court directed a verdict against the defendant the Court of Appeals has passed on issues of credibility and has drawn unfavorable inferences against the defendant.

REASONS FOR GRANTING CERTIORARI.

I.

The Court of Appeals Has Decided a Question of General Importance Which Has Not Been But Should Be Settled by This Court; Namely, Whether a Cause Has Become Moot on Appeal Is to Be Determined by the Federal Authorities or by the State Decisions Under the Rule of Erie Railroad Co. v. Tompkins, 304 U. S. 64.

By its decision the Court of Appeals has held that the question as to whether a cause is moot is to be determined under the State law as a substantive question in accordance with the ruling in *Erie Railroad Co.* v. *Tompkins* and not by the Federal authorities (R. 213, 215):

> "In support of its motion, Watson Brothers cites and relies entirely upon *Heitmuller* v. *Stokes*, 256 U. S. 359. There the court, with a situation before it quite similar to that which now confronts us, held that the question of the right to possession had become moot and it reversed and remanded the cause to the court of original jurisdiction with directions that the complaint be dismissed. The holding in that case, if controlling, would seem to require affirmative action on the motion under consideration. Since then, however, we have had *Erie Railroad Co.* v. *Tompkins*, 304 U. S. 64, which calls for the invocation of the State rule where substantive rights are affected. The question thus posed is whether the issue on the motion is substantive or procedural. If the former, the rights of the parties must be determined by the Illinois law; if the latter, the *Heitmuller* case, *supra*, governs.
>
> "Watson Brothers contends that there is no subject matter upon which the judgment of the court can now

operate. Of course, that is true provided the assertion is limited solely to the right of possession. * * *

* * * * *

"We think that the question presented involves substantive rather than procedural rights. * * *"

This Court has held that a conveyance of premises involved in an action for possession during the pendency of an appeal on the question of the right of possession rendered the controversy moot. This was the decision in *Heitmuller* v. *Stokes,* 256 U. S. 359. The Illinois cases, however, hold to the contrary on the question of mootness of the cause by the conveyance of title during the pendency of an appeal.

In the case of *Heitmuller* v. *Stokes,* 256 U. S. 359, suit was originally brought in the Municipal Court of the District of Columbia for possession of certain described premises and the Municipal Court rendered a judgment in favor of the defendant. The judgment in the Municipal Court was reversed by the Supreme Court of the District of Columbia, which judgment was affirmed in the Circuit Court of Appeals of the District of Columbia, and the cause was then taken by Writ of Error to the Supreme Court of the United States.

During the pendency of the Writ of Error, the defendant in error filed a motion to dismiss the Writ of Error setting forth as grounds for the motion that the cause of action between the parties had ceased to exist by reason of the fact that after judgment of the Court of Appeals, he had sold and conveyed the real estate which was the subject matter of the suit and was therefore not entitled to the relief sought in the action, namely, the possession of the premises, and in addition, that there was no actual controversy involving real and substantial rights between the parties, and no subject matter upon which the judgment

of the court could operate. This Court agreed that since the action was brought to recover possession of real estate, and that the defendant in error had sold the real estate pending the review in the Supreme Court, the case had now become moot. The court said at page 361:

> "As the action was brought to recover the possession of real estate, and as the defendant in error has, pending review in this court, sold it, we agree with the contention that the case has become moot. The plaintiff in error, so far as the record discloses, is in possession, and the defendant in error, having sold and conveyed the property, a judgment if in his favor will not give him possession of the premises. It has been often held that this court will not decide moot cases."

In addition to the fact of a conveyance of property by the plaintiff there was the surrender of possession by the defendant to the plaintiff's grantee in the case at bar (R. 182-187, 199).

The plaintiff cannot be granted any effectual relief. It cannot be restored to possession of the premises.

Under the decisions of this Court if a judgment of the Court would be wholly ineffectual for want of a subject matter on which it could operate, the cause is moot.

In *Brownlow* v. *Schwartz*, 261 U. S. 216, this Court held that it would not proceed to a determination when its judgment would be wholly ineffectual for want of a subject matter on which it could operate. In the same case the Court laid down the rule to be followed when the cause has become moot on appeal, holding that in such a situation the practice requires that the judgment below be reversed and remanded, with directions to dismiss the bill, complaint or petition. The Court said:

> "This Court will not proceed to a determination when its judgment would be wholly ineffectual for want of a subject matter on which it could operate.

An affirmance would ostensibly require something to be done which had already taken place. A reversal would ostensibly avoid an event which had already passed beyond recall. One would be as vain as the other. To adjudicate a cause which no longer exists is a proceeding which this Court uniformly has declined to entertain. * * *

"* * * The case being moot, further proceedings upon the merits can neither be had here nor in the court of first instance. To dismiss the writ of error would leave the judgment of the Court of Appeals requiring the issuance of the mandamus in force—at least apparently so—notwithstanding the basis therefor has disappeared. Our action must, therefore, dispose of the case, not merely of the appellate proceeding which brought it here. The practice now established by this Court, under similar conditions and circumstances, is to reverse the judgment below and remand the case with directions to dismiss the bill, complaint or petition."

In *Alejandrino* v. *Quezon*, 271 U. S. 528, 535, the court said:

"The case having become moot as respects its main features, and the other feature being incidental and not in itself a proper subject for determination as now presented, further steps looking to an adjudication of the cause can neither be had here nor in the court below. In this situation we must, following the established practice of this Court, vacate the judgment below and remand the cause with directions to dismiss the petition without costs to either party."

In *Gulf, Col. & S. F. Ry. Co.* v. *Dennis*, 224 U. S. 503, 508, the Court said:

"Almost from the beginning it has been the settled rule in this court that when, pending a writ of error to a lower Federal court, and without the fault of the defendant in error, an event occurs which renders it impossible, if the case was decided in favor of the

plaintiff in error, to grant him any effectual relief whatever, the court will not proceed to a formal judgment, but will dismiss the writ."

The ruling of the Court of Appeals is directly contrary to the constitutional requirement of Article III, Section 2, limiting the jurisdiction of the Federal courts to "controversies." Admittedly in the cause before the Court the complaint and judgment are limited solely to the right of possession of the premises which is the subject matter of the suit. Admittedly the plaintiff voluntarily conveyed the premises during the pendency of the appeal in the Court of Appeals and admittedly the grantee of the plaintiff during the pendency of the appeal has taken possession of these premises (R. 213).

Under these circumstances further proceedings upon the merits of the right to possession by the plaintiff cannot be held in this Court nor in the court below. The cause being moot there is no longer a controversy within the requirements of the constitutional provisions relating to jurisdiction of the Federal Courts.

The issue presented is Federal and is not to be determined by the state law.

II.

The Court of Appeals Deprived the Defendant of Its Right to a Trial by Jury by Passing Upon Issues of Credibility and Drawing Unfavorable Inferences Against the Defendant, in Arriving at Its Decision on the Merits.

This case was tried to a jury. The only evidence before the jury was that of the defendant in support of its affirmative defense. The issues presented on the merits of the case were factual issues for the jury. By its decision the Court has substituted its judgment for that of

the jury by passing on issues of credibility and by drawing unfavorable inferences from the evidence against the defendant. The principal basis for the Court's decision as appears from the opinion is the fact that it found "* * * that no oral agreement was made binding upon Central States, * * *" (R. 221).

The following portion of the Court's opinion demonstrates the action of the Court in passing on issues of credibility and drawing unfavorable inferences against the defendant:

> "Watson Brothers relies on the well known rule that it was on a motion for directed verdict entitled to the benefit of all favorable inferences arising from the facts. Assuming it was so entitled, as we think it was, it is our view that the inescapable *inferences do its position more harm than good.* For instance, if Wolfe at the time he claims to have made an oral lease with Richter thought that the latter was authorized to act for Central States, why did he insist that the agreement be signed by Lehtin? The fact that he was not willing to rely upon Richter in this respect indicates that he recognized Richter's lack of authority. More than that, so far as we can ascertain from the record, Watson Brothers first made its claim of an oral lease when its answer was filed in court on November 19, 1946. Its silence during all this time is, so we think, inconsistent with its belated contention that it was relying upon an oral lease. When Wolfe on June 8 received from McBride a letter containing Central States' proposal wholly at variance with the alleged oral lease entered into some twenty-four hours previously, *it taxes our credulity,* in the absence of any protest on his part that he believed an oral agreement binding on the parties had been consummated, and the *unfavorable inference* arising from that circumstance is enhanced by the failure of Watson Brothers to respond to or acknowledge receipt of the subsequent letters which it received from Central States. *A further inference against Watson Brothers* arises from the fact that it refused Central

Office - Supreme Court, U.
FILED
JUL 10 1950
CHARLES ELMORE CROPL

IN THE

Supreme Court of the United States

OCTOBER TERM, 1949.

No. [redacted]100

WATSON BROS. TRANSPORTATION CO., INC.,
Petitioner, Defendant,

vs.

CENTRAL STATES COOPERATIVES, INC.,
Respondent, Plaintiff.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

THOMAS G. MCBRIDE,
100 N. La Salle Street,
Chicago 2, Illinois,
Counsel for Respondent.

THE GUNTHORP-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

INDEX.

PAGE

Statement of the Case 1

Summary of Argument 6

ARGUMENT.

I. The defendant's contention that the cause became moot was, in previous proceedings on certiorari in this controversy, presented as an issue before the Supreme Court of the United States; the issue was decided against the defendant by this Court and cannot now be raised as a ground for the granting by this Court of a petition for certiorari at this time 9

II. Where the parties by stipulation in the Court of Appeals agreed to have the cause heard upon the merits by that court, the contention of the defendant that the cause had become moot was waived.. 12

III. The petitioner and defendant herein has not shown to this court or cited any authority sustaining its petition for certiorari whereby its petition falls under any of the categories as stated in Rule 38-5-b of the Rules of the Supreme Court of the United States, in which it has become customary for the Supreme Court to grant petitions for certiorari 13

IV. The controversy between the parties hereto had not become moot at the time of the decision of the Court of Appeals on February 10, 1950 and up to that time there existed a real and undetermined controversy involving substantial rights between the parties under the laws of the State of Illinois 15

Conclusion 24

CITATIONS.

Cases.

Bates v. Bodie, 245 U. S. 520, 38 S. Ct. 182, 62 L. Ed. 444, L. R. A. 1918 C, 355 11

Bell v. Bruhn, 30 Ill. App. 300, 301 18

Daggitt v. Mensch, 41 Ill. App. 403, 405, affirmed 141 Ill. 395, 31 N. E. 153 18

Danovitz v. United States, 281 U. S. 389, 50 S. Ct. 344, 74 L. Ed. 606 13

Edenborn v. Blacksher, 148 L. A. 296, 86 S. 817 11

Erie Railroad Co. v. Tompkins, 304 U. S. 64, 78, 82 L. Ed. 1188, 58 S. Ct. 817, 114 A. L. R. 1487 15

Ex Parte Lau Ow Bew, 141 U. S. 583, 12 S. Ct. 45, 35 L. Ed. 868 14

Glanz v. Ziabek, 233 Ill. 22, 25, 84 N. E. 36 21

Golden v. Menker, 132 Ill. App. 25, 29 20

Goodyear Tire & Rubber Co. v. Ray-O-Vac, 321 U. S. 275, 64 S. Ct. 593, 88 L. Ed. 721 14

Hammond v. Doty, 184 Ill. 246, 56 N. E. 371 21

Hickox v. Armstrong, 181 Ill. App. 107, 109 19

Hooper v. Buvidas, 239 Ill. App. 596 21

Houston Oil Co. v. Goodrich, 245 U. S. 440, 38 S. Ct. 140, 62 L. Ed. 385 14

Johnson v. Shinkle, 50 Ill. 137, 138 19

Mills v. Graves, 44 Ill. 50, 51 20

Palmer v. Frank, 169 Ill. 90, 48 N. E. 426 21

Palmer v. Hoffman, 318 U. S. 109, 63 S. Ct. 477, 87 L. Ed. 645, 144 A. L. R. 719, rehearing denied, 318 U. S. 800, 63 S. Ct. 757, 87 L. Ed. 1163 14

Patterson v. Graham, 40 Ill. App. 399, 404, affirmed 140 Ill. 531, 30 N. E. 460 19

Pearson v. Herr, 53 Ill. 144 21

Postal Telegraph Cable Co. v. City of Newport, 247 U. S. 464, 38 S. Ct. 566, 62 L. Ed. 1215 10

Rackley v. Fowlkes, 89 Tex. 613, 36 S. W. 77 11

Smith v. Hollenback, 51 Ill. 223 21

State of Ohio ex rel. Seney v. Swift & Co., 260 U. S. 146, 43 S. Ct. 22, 67 L. Ed. 176 14

Stoddard v. Illinois Improvement & Ballast Co., 271 Ill. 98, 110 N. E. 870 22

United Shoe Machinery Corp. v. United States, 258 U. S. 451, 42 S. Ct. 363, 66 L. Ed. 708 11

United States v. Ballard, 322 U. S. 78, 64 S. Ct. 882, 88 L. Ed. 1148 11

United States v. California Bridge & Construction Co., 245 U. S. 337, 38 S. Ct. 91, 62 L. Ed. 332 10

United States v. Johnston, 268 U. S. 220, 45 S. Ct. 496, 69 L. Ed. 925 13

United States v. Sacony-Vacuum Oil Co., 310 U. S. 150, 60 S. Ct. 811, 84 L. Ed. 1129, rehearing denied, 310 U. S. 658, 60 S. Ct. 1091, 84 L. Ed. 421 13

West Side Trust & Savings Bank v. Lopoten, 358 Ill. 631, 193 N. E. 462 22

Rule of Court.

Rule 38, Sub-paragraph 5-b 13

Text.

Corpus Juris Secundum, 50 C. J. S. 11, Sec. 592 9